

COPY

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
-----x

SERENDIP LLC & WENDY CARLOS,

Plaintiffs,

-against-

WARNER BROS. ENTERTAINMENT INC.,

Defendant.

Case No. CV08-07739
-----x

One Time Warner Center
New York, New York

September 16, 2009
10:00 a.m.

Videotaped deposition of ANNEMARIE
FRANKLIN, held at the offices of Time Warner,
Inc., pursuant to notice, before Barbara Driscoll,
a Notary Public of the State of New York.

ELLEN GRAUER COURT REPORTING CO. LLC
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New York, New York 10022
212-750-6434
Ref: 91146

1 FRANKLIN

2 than the presumption that you claim under the
3 copyright act?

4 A. No, I guess not -- well, I have to
5 amend that answer.

6 Other than the fact that it impinges
7 upon our ability to license music otherwise, if
8 people then think that Warner Brothers owns it or
9 can use it for nothing, so that is the extra harm
10 that happens.

11 Q. Since 1999 or 2000 when you learned
12 that there was a home video version of Clockwork
13 Orange, have you done any research to determine
14 when Clockwork Orange was first released on video
15 -- home video?

16 A. Yes.

17 Q. What did that research tell you?

18 A. I think it was sometime in the '80's.

19 Q. Since the 1980's, has Serendip licensed
20 any of the music for -- that also appears in
21 Clockwork Orange?

22 A. Yes.

23 Q. In fact, the Clockwork Orange music is
24 the music for which you received the most license
25 requests, correct?

1 FRANKLIN

2 A. Yes.

3 Q. Was anybody with him?

4 A. His son.

5 Q. That is Manuel?

6 A. Manuel.

7 Q. How long was he there?

8 A. I don't remember.

9 Q. Did you on that January 2000 date have
10 any discussions with Mr. Harlan regarding the
11 documentary, Life in Pictures?

12 MR. COHN: I assume what you're talking
13 about is substantive conversations as opposed
14 to, this is a nice project and it is
15 interesting kind of stuff. So if you can
16 clarify that that is what you're talking
17 about, it becomes much less formidable in
18 terms of recollecting everything that was ever
19 said.

20 MS. BURROW: I would actually like to
21 know her recollection of what was said at this
22 point. I appreciate your comments.

23 MR. COHN: Then your real question is,
24 at that time who said what to whom?

25 MS. BURROW: I am fine with that

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question.

Q. The first question was actually a yes/no; did you have any discussions? The next question was, who said what to whom?

A. Obviously, he and I talked. However, the purpose of that question was to do the video taping of Wendy Carlos and that is what actually took place.

Q. Did he tell you there would be clips from movies in the documentary?

A. No.

Q. At the time, this January 2000 time, had you ever seen documentaries about the lives of film makers?

A. I have seen documentaries.

Q. Have those included clips of movies?

A. Possibly.

Q. Other than this January 2000 conversation with Mr. Harlan, did you have any other conversations with Mr. Harlan about the documentary Life in Pictures?

A. Yes.

Q. When was that?

A. Well, he came back in March and did a

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second session.

Q. About two months after the first?

A. That is what I believe -- that is my recollection.

Q. Was his son Manuel with him?

A. Yes -- yeah, he must have been.

Q. Anybody else that you recall?

A. No.

Q. What did you discuss with Mr. Harlan in March 2000 regarding the documentary?

A. Only -- I don't remember actually. We didn't discuss the documentary in -- at that time, we weren't discussing the documentary. It was only dealing with Wendy Carlos' appearance in videotaping. That is all we ever talked about at that time -- at either time actually.

Q. In either of her two sessions with Mr. Harlan, did Ms. Carlos play any music that you're aware of?

A. The second session, yes.

Q. Did she play any music that had been written for Clockwork Orange in that second session that you recall?

A. I think she did. I think she played

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something that hadn't been used in the movie.

Q. Does the --

A. It was performed out of the computer actually.

Q. Does the Orange Minuet --

A. I think that is one of the -- it is in the complaint.

Q. She also played music that had been composed for The Shining, correct?

A. She played music that was related to The Shining, yes. Let's be careful about saying what it was done for.

Q. What distinction are you drawing when you say it is related to The Shining?

A. It is in the complaint.

Q. I am asking you. You corrected me and I would like to know what you meant.

A. Well, it is because -- you know, what is in the documentary speaks for itself but -- excuse me. It wasn't in the documentary; that is the problem that got us here.

She did some music that had been part of a demo tape that was done for The Shining.

Q. Just so I am clear, in the taping

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1
2 session with Mr. Harlan, Ms. Carlos played some
3 music that had been part of the demo tape for The
4 Shining? I am just making sure I understand your
5 testimony.

6 A. Yes.

7 Q. I want to go back to, you said it
8 wasn't in the documentary; that is the problem
9 that got us here, or words to that effect.

10 MR. COHN: I don't think that is what
11 she said. It was mumbled.

12 MS. BURROW: I can have it read back.

13 A. I will tell you what I meant. The
14 second session didn't appear in the documentary.

15 Q. Why is that -- what did you mean when
16 you said words to the effect of that is a problem?

17 A. Because it was used otherwise by Warner
18 Brothers.

19 Q. That is Wendy Carlos Composer?

20 A. Yes.

21 Q. Staying on Life in Pictures for just a
22 second, if you go to page 10 of your complaint,
23 paragraph 36 B, you list a number of compositions
24 that were composed, arranged or performed by Wendy
25 Carlos for Clockwork Orange.

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Q. Did you ever see Life in Pictures on HBO?

A. No.

Q. You didn't?

A. No.

Q. Do you know when it was released on HBO or when it was shown on HBO?

MR. COHN: You mean initially? It has been played more than once.

MS. BURROW: Yes.

Q. When Life in Pictures was initially shown on HBO.

A. I don't know.

Q. Do you know when Life in Pictures was originally released on home video?

A. I don't know.

Q. Do you know if it was in 2001?

A. I don't know.

Q. Do you know if it was prior to the 2007 box set of Stanley Kubrick director series?

A. I believe it was, yes, but that is just from looking at information on Amazon which has dates on it.

Q. So Mr. Harlan came to your home on two

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A C K N O W L E D G M E N T

STATE OF)
) ss.:
COUNTY OF)

I, ANNEMARIE FRANKLIN, hereby
certify that I have read the transcript of my
testimony taken under oath in my deposition;
that the transcript is a true, complete and
correct record of my testimony, and that the
answers on the record as given by me are true
and correct.

ANNEMARIE FRANKLIN

Signed and subscribed to before
me, this day of ,
20__.

Notary Public, State of _____

C E R T I F I C A T E

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

I, BARBARA DRISCOLL, a Shorthand Reporter and a Notary Public within and for the State of New York, do hereby certify that the foregoing deposition of ANNEMARIE FRANKLIN was taken before me on the 16th day of September, 2009;

That the said witness was duly sworn before the commencement of her testimony; that the said testimony was taken stenographically by me and then transcribed.

I further certify that I am not related by blood or marriage to any of the parties to this action or interested directly or indirectly in the matter in controversy; nor am I in the employ of any of the counsel in this action.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of September, 2009.



BARBARA DRISCOLL